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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/999,308	12/29/1997	NOBUTSUGU FUJINO	FUJO14691	3706

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EXAMINER

ENG, GEORGE

ART UNIT	PAPER NUMBER
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2643

44

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

08/999,308

Applicant(s)

FUJINO ET AL.

Examiner

George Eng

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 22 April 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-56.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


George Eng
Primary Examiner
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Response to Arguments

1. Applicant's arguments filed 4/22/2004 (paper no. 42) have been fully considered but they are not persuasive.

In response to applicant's argument that the prior art fails to teach or suggest to enable resumption of data communications by simply disconnecting the line used for data communication without providing disconnection notification to upper level applications, it appears that Goldman clearly teaches to suspend, i.e., disconnect, a line being used for a data sessions in order to allow a user to take an incoming call from a third party, i.e., to provide a voice communication with the third party, during the data session, and to enable automatically resume the data session when the user place the telephone instrument in on hook, i.e., terminate the voice communication (abstract and col. 2 lines 12-38), wherein an interface, read as a temporary line disconnected unit, providing in a host and a user terminal for suspending the line used for data communication and maintaining the data session during the suspension period by providing carrier signals to the user terminal and the host (col. 4 line 42 through col. 5 line 11). Note while the data session is maintained during the suspension period. It recognizes the interface as taught by Goldman disconnecting the line used for data communication without providing disconnection notification notice to upper level applications. In addition, the carrier signals are different from disconnection notices because the carrier signals is used for maintaining the data session during the suspension period so that the upper layer applications do not recognizes the disconnection of the line used for data communication in order to allow the user to take the incoming call from the third party and resume of data communication by simply terminating the voice communication. Thus, carrier signals are functioning as specified data. As

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a result, the claimed limitations are rejected by the combination of Shachar, van Hoff and Goldman.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., enable resumption of data communication by simply disconnecting the line used for data communication without providing disconnection notification to upper level application) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). According to each independent claim, the temporary line disconnection unit is merely defined to disconnect a line being used for data communications without issuing any disconnection notifications to an upper layer application of said terminal and said server when said terminal voice communicates with a third party other than said server through said communication network during the data communication when specified data is received, and automatically connecting said server to said terminal when the voice communications terminate. Thus, each claim fails to clearly define to enable resumption of data communication by simply disconnecting the line used for data communication without providing disconnection notification to upper level application. Furthermore, Goldman clearly teaches to resume data session between the user terminal and the host upon receiving a subsequent in-band signal from the user interface, i.e., on-hook signal of the user telephone. Thus, one skill in the art would recognize Goldman teaching to automatically connect the host and the user terminal when the voice call communication terminate, i.e., on-hook signal of the user telephone.

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In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., directly initiate and perform a temporary line disconnection) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).